

Ms. Laurie Allen  
Acting Director, Office of Protected Resources  
National Marine Fisheries Service - 13<sup>th</sup> Floor  
1315 East-West Highway  
Silver Spring, MD 20910

Dear Ms. Allen:

The Office of Pesticide Programs (OPP), U. S. Environmental Protection Agency (EPA), respectfully requests the initiation of Endangered Species Act (ESA) section 7(a)(2) formal consultation. This consultation request addresses 10 Evolutionarily Significant Units (ESUs) of Pacific salmon and steelhead that have been listed as Federally endangered or threatened and two forms of a pesticide registered by EPA under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) for uses within the range of the listed ESUs. The pesticide active ingredients subject to this request are bromacil and lithium bromacil which are used as herbicides applied to soils. Bromacil is registered for use in citrus orchards, pineapples, and various non-agricultural uses, with the majority of these non-agricultural uses being on rights-of-way. Lithium bromacil is similar, but is registered only for use on the same non-agricultural sites. Our long-term intent is to make effects determinations and consult, as appropriate, relative to all listed species and locations. However, as per agreement with the National Marine Fisheries Service, this request is limited to Pacific salmon and steelhead in California, for which NMFS has responsibility.

Bromacil and lithium bromacil have only slight toxicity to fish, and OPP has determined that there will be no direct effects on listed salmon and steelhead for any of the registered uses. OPP has further determined that the use of bromacil on citrus may affect, but is not likely to adversely affect one steelhead ESU and will have no indirect effect on nine other listed salmon and steelhead ESUs. OPP has also determined that the use of bromacil and lithium bromacil used on rights-of-way and other non-agricultural sites may affect, but is not likely to affect, five salmon and steelhead ESUs and will have no effect on five other salmon and steelhead ESUs.<sup>1</sup>

The 10 salmon and steelhead ESUs subject to this request occur throughout California and southern Oregon watersheds, except the Colorado River, that drain into the Pacific Ocean. The primary threats for these ESUs have been the continued development of the western states for a variety of human-related activities, including residential and commercial development, agriculture, and forestry, along with genetic swamping of certain ESUs by unrelated hatchery stocks. These activities have resulted in barriers to upstream and downstream migration, loss of available water, reduced water quality, physical modification of aquatic and riparian habitat. Excessive harvesting may also have played a role in their decline. Listing of these salmon and steelhead ESUs has sensitized the public to the need to provide protection.

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<sup>1</sup> See Memorandum, with attached analysis, from Larry Turner, Ph.D., Senior Scientists, Environmental Field Branch, OPP, EPA, to Arthur-Jean B. Williams, Chief, Environmental Field Branch, OPP, EPA, November 10, 2003 (attached).

OPP developed an analysis of the effects of bromacil and lithium bromacil on ecological non-target organisms as part of its broad effort to re-register existing pesticides. In this review, potential effects on fish were of concern at the highest labeled application rates. As a result of that analysis, these high rates of bromacil and lithium bromacil on non-agricultural sites were reduced to below levels of concern for threatened and endangered fish. However, because the use is as an herbicide, rate reductions were not able to avoid all concerns for plants, including aquatic vascular plants that may serve as cover for listed fish, particularly where there are consequential amounts used. OPP has concluded that there will be no direct effects and that current label rates and the modest amount used are sufficient to expect adverse effects to be unlikely or none and we are therefore not recommending additional protective measures.

We look forward to working with NMFS to protect and help recover listed species. If you have any questions, please feel free to call me at (703) 305-5239, or your staff may contact my Senior Scientist, Dr. Larry Turner at (703) 305-5007.

Enclosure

Sincerely,

/s/ 11-13-03

Arthur-Jean B. Williams, Chief  
Environmental Field Branch (7506C)

cc: Craig Johnson